

Exhibit A

Ives, Erik J.

From: Ives, Erik J.
Sent: Tuesday, July 14, 2020 12:18 AM
To: 'jon.swenson@bakerbotts.com'; andrew.wilson@BakerBotts.com; Vanderporten, Steven L.; karina.smith@bakerbotts.com; hop.guy@BakerBotts.com
Cc: Koropp, David E.; Reynolds, Steven J.
Subject: RE: Status Report [IWOV-iManage.FID278983]

Jon:

As stated in multiple communications below, we cannot file the proposed status report in which Defendants have materially altered Ubiquiti's own statements.

If you are not available due to a personal matter, then we will wait to file until the morning after we have received Defendants' separate position statement. If you would like to schedule a call to discuss this matter prior to such filing, we are available at any time tomorrow morning. I am also available until 12:30 a.m. cst, but will be logging-off at that point unless I hear from you before that time.

Thanks,

Erik

Erik J. Ives
eives@foxswibel.com | 312-224-1239 (direct)

FOX SWIBEL

FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxswibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

From: jon.swenson@bakerbotts.com [mailto:jon.swenson@bakerbotts.com]
Sent: Tuesday, July 14, 2020 12:06 AM
To: Ives, Erik J.; andrew.wilson@BakerBotts.com; Vanderporten, Steven L.; karina.smith@bakerbotts.com; hop.guy@BakerBotts.com
Cc: Koropp, David E.; Reynolds, Steven J.
Subject: RE: Status Report [IWOV-iManage.FID278983]

Erik,

We haven't made any last minute changes. Ubiquiti has delayed to the last minute (and past) despite us sending you our proposals four days ago. I can't get on a call at this hour as I have to attend to personal matters with my small children. Please file our proposed status report and we can work out any responses/issues in future filings tomorrow.

Thanks,

Jon

Jon V. Swenson

T +1.650.739.7514

M +1.650.773.9185

From: Ives, Erik J. <eives@foxswibel.com>

Sent: Monday, July 13, 2020 9:57 PM

To: Swenson, Jon <jon.swenson@bakerbotts.com>; Wilson, Andrew <andrew.wilson@BakerBotts.com>; Vanderporten, Steven L. <svanderporten@foxswibel.com>; Smith, Karina <karina.smith@bakerbotts.com>; Guy, Hop <hop.guy@BakerBotts.com>

Cc: Koropp, David E. <dkoropp@foxswibel.com>; Reynolds, Steven J. <sreynolds@foxswibel.com>

Subject: RE: Status Report [IWOV-iManage.FID278983]

[EXTERNAL EMAIL]

Jon – we will not be filing a “joint status report” in which you revised Ubiquiti’s own statements (nor do Defendants have our authority to do so). We are likewise scrambling to prepare our own statement as a result of your last minute changes, and thus we are in the same position. Please call me at 773-339-3171 to discuss how we can best address this matter.

Thanks,

Erik

Erik J. Ives
eives@foxswibel.com | 312-224-1239 (direct)

FOX SWIBEL

FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxswibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

From: jon.swenson@bakerbotts.com [mailto:jon.swenson@bakerbotts.com]

Sent: Monday, July 13, 2020 11:54 PM

To: Ives, Erik J.; andrew.wilson@BakerBotts.com; Vanderporten, Steven L.; karina.smith@bakerbotts.com; hop.guy@BakerBotts.com

Cc: Koropp, David E.; Reynolds, Steven J.

Subject: RE: Status Report [IWOV-iManage.FID278983]

Erik,

This is unacceptable. We are less than 15 minutes away from the deadline for submission and we still do not have plaintiff's positions. In addition, plaintiff has removed our positions from the status report entirely that we provided well in advance. This is hardly a joint submission and has not been done in a timely manner.

Please file our proposed status report that we sent you last. You can provide any comments that you would like in a separate report and we reserve the opportunity to respond if we need to. Please also include this correspondence with the filing.

Thanks,

Jon

Jon V. Swenson

T +1.650.739.7514

M +1.650.773.9185

From: Ives, Erik J. <eives@foxswibel.com>

Sent: Monday, July 13, 2020 9:40 PM

To: Swenson, Jon <jon.swenson@bakerbotts.com>; Wilson, Andrew <andrew.wilson@BakerBotts.com>; Vanderporten,

Steven L. <svanderporten@foxswibel.com>; Smith, Karina <karina.smith@bakerbotts.com>; Guy, Hop

<hop.guy@BakerBotts.com>

Cc: Koropp, David E. <dkoropp@foxswibel.com>; Reynolds, Steven J. <sreynolds@foxswibel.com>

Subject: RE: Status Report [IWOV-iManage.FID278983]

[EXTERNAL EMAIL]

Jon and Andrew:

Attached is a re-organized draft of the status report, in which information regarding the source code appointments and location (where the parties were in agreement) is set forth at the outset in a joint statement. On this point, we have included a new redline sentence (and explanatory comment) to address Defendants' last minute proposed deletion of language that you had previously agreed to regarding source code inspection appointments. It is our hope that this language does not need to be included, but please advise per our internal comment.

A separate section has been added for the parties to submit competing statements regarding the content of Ubiquiti's source code production, and any demands that defendants are now seeking to make regarding the same. Please send us your re-organized statement by no later than 11:50 p.m. in order to ensure we can meet the filing deadline. We had attempted to reorganize your proposed changes on our own, but did not want to purport to speak for Defendants.

With respect to the correspondence to be attached, we plan to attach this full meet/confer email exchange (attaching the last redline version of the proposed joint report reflecting all parties proposed changes).

Thanks,

Erik

Erik J. Ives
eives@foxswibel.com | 312-224-1239 (direct)

FOX SWIBEL

FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxswibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

From: Ives, Erik J.

Sent: Monday, July 13, 2020 11:20 PM

To: 'jon.swenson@bakerbotts.com'; andrew.wilson@BakerBotts.com; Vanderporten, Steven L.; karina.smith@bakerbotts.com; hop.guy@BakerBotts.com

Cc: Koropp, David E.; Reynolds, Steven J.

Subject: RE: Status Report [IWOV-iManage.FID278983]

Jon:

Ubiquiti cannot agree to submit the proposed report as drafted, as Defendants have unilaterally and materially sought to modify Ubiquiti's own statements, among other improper changes. Defendants' last-minute changes will once again require that the parties submit competing statements to the Court. Based on the timing and unsupported nature of these proposed changes, this of course raises a question as to whether this was Defendants' intention throughout this process – in which our office has sought to meaningfully meet/confer and respond to each of the inquiries raised during last week's meet/confer and throughout the drafting of this report.

We are working to re-organize this report in order to set out the parties' positions separately (where needed), and will recirculate that version once ready.

Thank you,

Erik

Erik J. Ives

eives@foxswibel.com | 312-224-1239 (direct)

FOX SWIBEL

FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxswibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

From: jon.swenson@bakerbotts.com [mailto:jon.swenson@bakerbotts.com]

Sent: Monday, July 13, 2020 11:12 PM

To: Ives, Erik J.; andrew.wilson@BakerBotts.com; Vanderporten, Steven L.; karina.smith@bakerbotts.com;

hop.guy@BakerBotts.com

Cc: Koropp, David E.; Reynolds, Steven J.

Subject: RE: Status Report [IW0V-iManage.FID278983]

Erik,

We disagree with your characterizations. We have been asking for Ubiquiti's position for days but Ubiquiti has been refusing to discuss these issues with us in a timely manner. All of the issues we raised relate to Ubiquiti's deficient source code production that we have previously raised with you or are in response to the draft of the draft status report you recently sent. We will agree to submitting our proposed version of the status report with the correspondence if you provide us the correspondence that you propose to submit in advance.

Thanks,

Jon

Jon V. Swenson

T +1.650.739.7514

M +1.650.773.9185

From: Ives, Erik J. <eives@foxswibel.com>

Sent: Monday, July 13, 2020 9:02 PM

To: Wilson, Andrew <andrew.wilson@BakerBotts.com>; Vanderporten, Steven L. <svanderporten@foxswibel.com>;

Swenson, Jon <jon.swenson@bakerbotts.com>; Smith, Karina <karina.smith@bakerbotts.com>; Guy, Hop

<hop.guy@BakerBotts.com>

Cc: Koropp, David E. <dkoropp@foxswibel.com>; Reynolds, Steven J. <sreynolds@foxswibel.com>

Subject: RE: Status Report [IW0V-iManage.FID278983]

[EXTERNAL EMAIL]

Andrew and Jon:

Defendants have deleted and materially modified Ubiquiti's statements contained in this joint report, and have attempted to raise new, previously unaddressed allegations without any factual support just one hour prior to the deadline for filing – this despite having represented this evening that "your proposal to accept or revise our previous statement would allow us to resolve our dispute (subject to our review of the proposed language)." Please be advised that absent your agreement to remove these last-minute changes, we intend to attach a full copy of the enclosed correspondence to the status report in order to provide the Court with the necessary information to understand the improper nature of these demands.

Please contact me immediately at 773-339-3171 to discuss this matter, including the logistics for how the parties will be able to file a joint status report by this evening's deadline.

Thank you,

Erik

Erik J. Ives

eives@foxswibel.com | 312-224-1239 (direct)

Fox SWIBEL

FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxbibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

From: andrew.wilson@BakerBotts.com [mailto:andrew.wilson@BakerBotts.com]

Sent: Monday, July 13, 2020 10:38 PM

To: Vanderporten, Steven L.; jon.swenson@bakerbotts.com; karina.smith@bakerbotts.com; hop.guy@BakerBotts.com

Cc: Ives, Erik J.; Koropp, David E.; Reynolds, Steven J.

Subject: RE: Status Report

Steve,

We made our changes in redline in the attached version.

Thanks,

Andrew Wilson

T +1.202.639.1312

M +1.301.807.6646

F +1.202.508.9336

Baker Botts L.L.P.
700 K Street, NW
Washington, D.C. 20001

From: Vanderporten, Steven L. <svanderporten@foxbibel.com>

Sent: Monday, July 13, 2020 10:34 PM

To: Wilson, Andrew <andrew.wilson@BakerBotts.com>; Swenson, Jon <jon.swenson@bakerbotts.com>; Smith, Karina <karina.smith@bakerbotts.com>; Guy, Hop <hop.guy@BakerBotts.com>

Cc: Ives, Erik J. <eives@foxbibel.com>; Koropp, David E. <dkoropp@foxbibel.com>; Reynolds, Steven J. <sreynolds@foxbibel.com>

Subject: RE: Status Report

[EXTERNAL EMAIL]

Andrew,

Attached please find an updated Joint Status Report. We will look into the directory path for the full source code for the registered versions of AirOS, which were produced. You have also raised a number of other issues below to which we will respond in writing. However, as these issues are not immediately relevant for the filing of the Joint Status Report (per your red-line revisions sent last Friday), please let us know if you approve of our most recent track-changes. Thanks.

Best,

Steven Vanderporten

Steven L. Vanderporten
svanderporten@foxswibel.com | 312-224-1218 (direct)



FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxswibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

From: andrew.wilson@BakerBotts.com [mailto:andrew.wilson@BakerBotts.com]

Sent: Monday, July 13, 2020 5:45 PM

To: Vanderporten, Steven L.; jon.swenson@bakerbotts.com; karina.smith@bakerbotts.com; hop.guy@BakerBotts.com

Cc: Ives, Erik J.; Koropp, David E.; Reynolds, Steven J.

Subject: RE: Status Report

Steve,

Thanks for looking into the overall AirOS code production issue. We'll take a look to confirm at the next inspection. Could you please provide the directory path to the full source code for the versions of AirOS so that we can direct our expert to that code? Separately, are the respectively numbered directories numbered with respect to the RFP's?

1. Thanks for providing the [REDACTED] To the extent that it is also a partition name, could you please cite to where in your discovery responses you disclose that the [REDACTED] partition contains Ubiquiti's proprietary compilations of configuration and calibration data?
2. We need to raise the issue that the Court required Ubiquiti to identify the 18 Files, including the configuration and calibration information, and that Ubiquiti has not done so, refuses to do so, and now (for the first time) claims that Defendants' production is somehow deficient because they have not produced Ubiquiti's proprietary code. This is an issue directly relevant to the logistics of Ubiquiti's production of the 18 Files because it entirely shifts the burden of production to Defendants. It is therefore properly raised in this status report, and Ubiquiti may revise to incorporate this issue.
3. We are requesting Ubiquiti to please produce the "compilations of data" that are proprietary and that are resident on or written to those partitions by Ubiquiti's firmware so that we can evaluate them.
 - a. As to [REDACTED] it seems unlikely that Ubiquiti's firmware would write to this partition [REDACTED] if Ubiquiti's source code merely reads this data, then there is no way Defendants can determine what is contained on [REDACTED] it by inspecting Ubiquiti's code. Ubiquiti must produce the information from that partition so that Defendants can inspect it. If the partition is written to, then Ubiquiti must identify what is written by users and what is claimed as proprietary by Ubiquiti. Ubiquiti must produce the compilations of data [REDACTED] or identify the specific source code portions that contain and write the allegedly proprietary data.
 - b. As to [REDACTED] Ubiquiti must identify the portions of its 18 modules that contain the allegedly proprietary compilations of data that are written to [REDACTED] so that we can understand what is being asserted.
4. We do insist on raising this issue in the status report and your proposal to accept or revise our previous statement would allow us to resolve our dispute (subject to our review of the proposed language).

Thanks,

Andrew Wilson

T +1.202.639.1312
M +1.301.807.6646
F +1.202.508.9336

Baker Botts L.L.P.
700 K Street, NW
Washington, D.C. 20001

From: Vanderporten, Steven L. <svanderporten@foxswibel.com>
Sent: Monday, July 13, 2020 5:20 PM
To: Wilson, Andrew <andrew.wilson@BakerBotts.com>; Swenson, Jon <jon.swenson@bakerbotts.com>; Smith, Karina <karina.smith@bakerbotts.com>; Guy, Hop <hop.guy@BakerBotts.com>
Cc: Ives, Erik J. <eives@foxswibel.com>; Koropp, David E. <dkoropp@foxswibel.com>; Reynolds, Steven J. <sreynolds@foxswibel.com>
Subject: RE: Status Report

[EXTERNAL EMAIL]

Andrew,

That is not accurate, and therefore should not be included in any status report. We produced the full source code for the three registered versions of AirOS. Additionally, in response to RFPs Nos. 2, 3, 7 and 8, we produced source code outside the 18 Modules in separate respectively numbered directories, which are readily identifiable on the source code computer in Palo Alto.

Below are our responses to the 4 issues raised in your earlier e-mail:

1. We also identified [REDACTED] to you at the July 8 Meet-and-Confer. Ubiquiti also specifically disclosed [REDACTED] in its responses to Defendants' discovery.
2. Again, we discussed [REDACTED] at the July 8 Meet-and-Confer. Defendants' proposed arguments about Ubiquiti's "proprietary interest" in the [REDACTED] is outside the scope of this status report on Defendants' review of the 18 Files. Although we believe it is inappropriately considered here, if you intend to make this misguided claim in a status report to the Judge on a separate issue, then we will reconsider the language sent in your prior version of the status report (sent Friday), and will respond accordingly. Please confirm you agree with this approach, and we will send a revised status report.
3. As explained at the Meet-and-Confer [REDACTED]
4. Again [REDACTED] However, consistent with our offer in response to No. 2, if you want to proceed with this statement in the status report, we will reconsider the language you sent Friday, and respond accordingly.

Please let us know if you agree with our proposal in Nos. 2 and 4 above to resolve our dispute and file a Joint Status Report. Thank you.

Best,

Steve Vanderporten

Steven L. Vanderporten
svanderporten@foxswibel.com | 312-224-1218 (direct)

FOX SWIBEL

FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxswibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

From: andrew.wilson@BakerBotts.com [mailto:andrew.wilson@BakerBotts.com]

Sent: Monday, July 13, 2020 2:40 PM

To: Vanderporten, Steven L.; jon.swenson@bakerbotts.com; karina.smith@bakerbotts.com; hop.guy@BakerBotts.com

Cc: Ives, Erik J.; Koropp, David E.; Reynolds, Steven J.

Subject: RE: Status Report

Steve,

Defendants recently learned that Ubiquiti has not produced any airOS code outside of the code for the 18 modules, including the OpenWRT code on which that code is based. Could you please look into this issue as quickly as possible for us? We will also need to revise the statement to the Court on this issue as well (i.e., to clarify that we are investigating whether Ubiquiti has produced “the entire code base for the AirOS firmware”), which we initially agreed to based on your representation.

Thanks,

Andrew Wilson

T +1.202.639.1312

M +1.301.807.6646

F +1.202.508.9336

Baker Botts L.L.P.
700 K Street, NW
Washington, D.C. 20001

From: Wilson, Andrew

Sent: Monday, July 13, 2020 3:01 PM

To: Vanderporten, Steven L. <svanderporten@foxswibel.com>; Swenson, Jon <jon.swenson@bakerbotts.com>; Smith, Karina <karina.smith@bakerbotts.com>; Guy, Hop <hop.guy@BakerBotts.com>

Cc: Ives, Erik J. <eives@foxswibel.com>; Koropp, David E. <dkoropp@foxswibel.com>; Reynolds, Steven J. <sreynolds@foxswibel.com>

Subject: RE: Status Report

Steve,

As you know these changes are unacceptable. The status report should be modified as we initially revised to reflect the following:

1. We have no idea of what the [REDACTED] you are referring to is (beyond [REDACTED] [REDACTED] discussed during last week's meet and confer). Please identify the [REDACTED] by name to us now and indicate the date of today in the status report as the true date of disclosure. Otherwise please revise to state [REDACTED] as our initial draft recited.
2. As we previously explained, Ubiquiti does not have a proprietary interest in [REDACTED] because users create a substantial amount of it. Your contention that Defendants are now obligated to identify the

compilations of user-set data that Ubiquiti is claiming proprietary rights in is the exact opposite of the Court's order requiring Ubiquiti to produce the 18 Files. As to the alleged [REDACTED] we cannot provide any comment because we simply do not know what [REDACTED] that refers to.

3. We note that neither [REDACTED] nor the [REDACTED] that allegedly contain Ubiquiti's proprietary compilations of data (that Ubiquiti has so-far refused to produce) have been identified in the FAC as one of the 18 Files.
4. Defendants still require a clear identification of the "compilations of data" that Ubiquiti claims as proprietary and we cannot certify that the 18 modules have been produced absent that disclosure.

Please revise to be consistent with the current status of the review as discussed above or provide a draft with a format that will allow Defendants to identify the actual status of these matters.

Thanks,

Andrew Wilson

T +1.202.639.1312
M +1.301.807.6646
F +1.202.508.9336

Baker Botts L.L.P.
700 K Street, NW
Washington, D.C. 20001

From: Vanderporten, Steven L. <svanderporten@foxswibel.com>

Sent: Monday, July 13, 2020 2:03 PM

To: Wilson, Andrew <andrew.wilson@BakerBotts.com>; Swenson, Jon <jon.swenson@bakerbotts.com>; Smith, Karina <karina.smith@bakerbotts.com>; Guy, Hop <hop.guy@BakerBotts.com>

Cc: Ives, Erik J. <eives@foxswibel.com>; Koropp, David E. <dkoropp@foxswibel.com>; Reynolds, Steven J. <sreynolds@foxswibel.com>

Subject: RE: Status Report

[EXTERNAL EMAIL]

Andrew,

Ubiquiti's red-line revisions to your version of the Joint Status Report are attached. Please let us know if you have any questions or further revisions. Thanks.

Best,

Steve Vanderporten

Steven L. Vanderporten
svanderporten@foxswibel.com | 312-224-1218 (direct)

FOX SWIBEL

FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxswibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

From: andrew.wilson@BakerBotts.com [mailto:andrew.wilson@BakerBotts.com]
Sent: Friday, July 10, 2020 2:55 PM
To: Reynolds, Steven J.; jon.swenson@bakerbotts.com; karina.smith@bakerbotts.com; hop.guy@BakerBotts.com
Cc: Ives, Erik J.; Koropp, David E.; Vanderporten, Steven L.
Subject: RE: Status Report

Steve,

Defendants' revisions are in the attached in track-changes.

Thanks,

Andrew Wilson

T +1.202.639.1312
M +1.301.807.6646
F +1.202.508.9336

Baker Botts L.L.P.
700 K Street, NW
Washington, D.C. 20001

From: Reynolds, Steven J. <sreynolds@foxswibel.com>

Sent: Friday, July 10, 2020 11:11 AM

To: Wilson, Andrew <andrew.wilson@BakerBotts.com>; Swenson, Jon <jon.swenson@bakerbotts.com>; Smith, Karina <karina.smith@bakerbotts.com>; Guy, Hop <hop.guy@BakerBotts.com>

Cc: Ives, Erik J. <eives@foxswibel.com>; Koropp, David E. <dkoropp@foxswibel.com>; Vanderporten, Steven L. <svanderporten@foxswibel.com>

Subject: Status Report

[EXTERNAL EMAIL]

Andrew,

Attached is a draft status report, which is due on Monday. It is also subject to client review. Please provide your revisions, if any, today.

-Steve

Steve Reynolds

sreynolds@foxswibel.com | 312-224-1249 (direct) | 312-636-4674 (mobile)

FOX SWIBEL

FOX SWIBEL LEVIN & CARROLL LLP

200 W. Madison Street, Suite 3000 | Chicago, Illinois 60606
www.foxswibel.com | 312-224-1200 (main) | 312-224-1201 (fax)

Confidentiality: This transmission is for the exclusive and confidential use of the intended recipient. It may be an attorney-client communication and privileged. The unauthorized use, disclosure or copying of this transmission is strictly prohibited and may be unlawful. If you have received this transmission in error, please notify me by return mail or telephone and delete the transmission from your system. Thank you.

Confidentiality Notice:

The information contained in this email and any attachments is intended only for the recipient[s] listed above and may be privileged and confidential. Any dissemination, copying, or use of or reliance upon such information by or to anyone other than the recipient[s] listed above is prohibited. If you have received this message in error, please notify the sender immediately at the email address above and destroy any and all copies of this message.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

UBIQUITI NETWORKS, INC.,

Plaintiff,

v.

CAMBIDIUM NETWORKS, INC.;
CAMBIUM NETWORKS, LTD.;
BLIP NETWORKS, LLC;
WINNCOM TECHNOLOGIES, INC.;
SAKID AHMED; and
DMITRY MOISEEV

Defendants.

Civil Action No.: 1:18-cv-05369

JURY TRIAL DEMANDED

JOINT STATUS REPORT

Plaintiff Ubiquiti Inc. (f/k/a Ubiquiti Networks, Inc.) (“Ubiquiti”), by and through its undersigned counsel, and Defendants Cambium Networks, Inc., Cambium Networks, Ltd., Blip Networks, LLC, Winncom Technologies, Inc., Sakid Ahmed, and Dmitry Moiseev (“Defendants”) (collectively Defendants and Ubiquiti are referred to as the “Parties”), by and through their undersigned counsel, respectfully submit this Joint Status Report pursuant to the Court’s order that the Parties submit an updated status report on logistics for the disclosure of the 18 Files. Dkt. 174; *see also* Dkt. 170. Based on the disputes identified below, Defendants contend that Ubiquiti has not complied with its obligations to produce the 18 Files to date and requests that the Court order at least an additional status report and/or conference to discuss Ubiquiti’s failure to produce the 18 Files that it has alleged form the basis of its case. Defendants request immediate production of all the files asserted in this case or immediate dismissal.

I. Review of Ubiquiti Code

Defendants, through their expert Mr. Atif Hashmi, inspected Ubiquiti's source code in the Palo Alto, California office of Simpson, Thacher & Bartlett LLP on June 25, 29, 30 and July 7, and 30, ~~and were scheduled to continue their inspection July 7–10 at the same location.~~ Mr. Hashmi conducted review on July 7 and canceled the remaining appointments on July 8–10.

Ubiquiti alleges that it has made the source code for each version of the 18 modules available ~~except that Ubiquiti has indicated that it is unable to produce "Ubiquiti's proprietary compilations of data contained in its calibration and configuration files of the Firmware"~~ (as discussed in more detail below), as well as several registered versions of the ~~entire~~ code base for the AirOS firmware. Defendants contend that Ubiquiti has not made the source code available for AirOs or the 18 Files. Defendants contend that the source code does not include the OpenWrt code (open source code) that is compiled with and incorporated into Ubiquiti's AirOS firmware. Ubiquiti contends that ~~The~~ the source code for each version of the 18 modules is set out in a separate folder and identified as the corresponding code by folder name. Defendants dispute Ubiquiti's contention.

Defendants assert that Ubiquiti has not produced "Ubiquiti's proprietary compilations of data contained in its calibration and configuration files of the Firmware" as well as additional information regarding the 18 Files (as discussed in more detail below). Ubiquiti does not disagree that it has not produced this information. ~~UU~~ Ubiquiti has refused to provide this information but instead has requested that Defendants produce and identify Ubiquiti's code advised and has advised Defendants where the proprietary compilations of data allegedly reside by identifying the names of the ~~non-voluminous (small)~~ partitions on the M-Series devices that store such data. Defendants contend that they do not have access to those partitions and that

Ubiquiti should produce information that is the subject of its claims contained in the First Amended Complaint. Thus, Ubiquiti contends that the identity of what information in the partitions Defendants (or the Elevate software) have accessed is in Defendants' possession, custody, and control; that it is their obligation to produce it; and that Defendants have improperly refused to do so. Ubiquiti contends, and Defendants dispute, that it has also produced the source code (e.g., the 18 modules) that read and/or write to those partitions.

In the previous, July 6 Joint Status Report, Defendants described an “*additional folder* … that appears to contain source code for an *additional File* (a 19th File) that was not listed in the FAC.” Dkt. 173, p. 4. In a July 8 meet-and-confer, Ubiquiti’s counsel advised Defendants’ counsel that the “additional folder” referenced contains source code that is not compiled or run on any Ubiquiti M-series device and contains historical files related to at least one of the 18 modules. Ubiquiti makes no claim or bases any part of its case based on this additional 19th File.

Defendants also asserted that “Ubiquiti has not produced any folder that is readily identifiable as containing ‘Ubiquiti’s proprietary compilations of data contained in its calibration and configuration files of the Firmware’ as alleged to be part of Ubiquiti’s ‘Proprietary Firmware’ in the FAC (see Dkt. 65, ¶39).” Dkt. 173, p. 4-5. In the July 8 meet-and-confer, Ubiquiti’s counsel advised Defendants’ counsel that the proprietary compilations of data contained in the calibration and configuration files are stored in two a two non-voluminous small partitions of the memory on the M-Series devices, and identified at least one of those that those partitions by name.¹ During that same meeting, Defendants’ counsel stated that Defendants still require a clear identification of the “compilations of data” that Ubiquiti is claiming proprietary rights in because data in the partition named by Ubiquiti’s counsel is necessarily modified

¹ The Parties dispute whether the second partition was identified by name during the meet-and-confer call. Nevertheless, Ubiquiti identified both partitions by name in writing on July 13, 2020.

extensively by users in the normal operation of Ubiquiti's firmware, and Ubiquiti clearly has no proprietary interest in at least the portions modified by users. -Ubiquiti contests Defendants' assertion about "proprietary rights," but notes Defendants' acknowledgment that they have been able to analyze the data. Defendants dispute that they have had any opportunity to analyze any data not produced by Ubiquiti and have requested Ubiquiti to immediately produce any such information. ~~The parties are continuing to discuss the identification of these materials~~ Ubiquiti's ability and willingness to identify those materials as part of their meet and confer efforts.

In terms of review locations, Ubiquiti has continued to investigate a location in Las Vegas, Nevada, following Defendants renewed request on July 3. As Ubiquiti previously advised the Court and Defendants, finding a review location in Las Vegas has been difficult, especially given the COVID-19 circumstances. Nonetheless, the parties have agreed to continue to meet and confer on this issue.

II. Review of Cambium Code

On June 10, Ubiquiti requested that Defendants identify a location near Potomac, Maryland, at which its expert could inspect Cambium's source code. In the July 7 meet-and-confer, Defendants' counsel advised Ubiquiti's counsel that they have not been able to identify such a location in either Potomac or Washington D.C. Thus, the difficulty in arranging source code review has affected all parties. And, as with the location for Defendants' review, the parties have agreed to continue to meet and confer on arranging a location for Ubiquiti to review Cambium's source code.

Dated: July 13, 2020

FOX, SWIBEL, LEVIN & CARROLL, LLP

/s/ [signature]

David Koropp (ARDC #6201442)
dkoropp@foxswibel.com
Erik J. Ives (ARDC #6289811)
eives@foxswibel.com
Steven J. Reynolds (ARDC #6293634)
sreynolds@foxswibel.com
Steven L. Vanderporten (ARDC # 6314184)
svanderporten@foxswibel.com
Fox Swibel Levin & Carroll LLP
200 W. Madison St., Suite 3000
Chicago, IL 60606

*Attorneys for Plaintiff Ubiquiti Inc., f/k/a
Ubiquiti Networks, Inc.*

Respectfully submitted,

BAKER BOTTS L.L.P.

/s/ [signature]

G. Hopkins Guy, III (CA Bar No. 124811)
Jon V. Swenson (CA Bar No. 233054)
Karina Smith (CA Bar No. 286680)
1001 Page Mill Road
Building One, Suite 200
Palo Alto, CA 94304-1007
650.739.7500 (Telephone)
650.739.7699 (Facsimile)
hop.guy@bakerbotts.com
jon.swenson@bakerbotts.com
karina.smith@bakerbotts.com

Local Counsel:

James P. Fieweger (Bar ID No. 6206915)
Michael Best & Friedrich, LLP
444 W. Lake Street. Suite 3200
Chicago, IL 60606
312.222.0800 (Telephone)
jpfieweger@michaelbest.com

Arthur Gollwitzer, III (Bar ID No. 6225038)
Michael Best & Friedrich, LLP
2801 Via Fortuna, Suite 300
Austin, Texas 78746
512.640.3160 (Telephone)
agollwitzer@michaelbest.com

*Attorneys for Defendants Cambium Networks,
Inc. et. al*